



***Board of Zoning Appeals Public Hearing
December 14, 2010 —7:00 P.M***

CASE NUMBER:	V-10-017
PROPERTY LOCATION:	500 Block of Dartington Way, Johns Creek, GA 30022 1st District, 1st Section Land Lot 99
CURRENT ZONING:	R-4A Conditional (Single Family Dwelling District)
PARCEL SIZE:	0.43 Acres
PROPERTY OWNER:	Craig & Eileen Lotz
PETITIONER:	Sanctum Design Group, Inc.

REQUEST

The applicant requests a variance to encroach 8 feet into the 50-foot undisturbed buffer and additional 25-foot impervious surface setback to modify and extend an existing deck with an overhead arbor addition. Approximately 60 square feet of the proposed deck and arbor addition would encroach into the 25-foot impervious surface setback portion of the stream buffer. The subject property is located in the Oxford Mill subdivision and a stream traverses along the rear property line. The subject property was platted with a 25-foot stream buffer from the point of wrested vegetation. Fulton County and subsequently, the City of Johns Creek have adopted the larger stream buffer standards of a 50-foot undisturbed buffer and an additional 25-foot impervious surface setback. There currently exists a brick, two-story single family residential dwelling on the subject lot, with the rear property grassed and clear of mature vegetation around the area of the proposed deck and arbor extension.

ADJACENT ZONING AND LAND USES

The subject property is zoned R-4A Conditional (Single Family Dwelling District) and is located in the Oxford Mill subdivision. To the north of the subject property is the Kingston Manor Park subdivision, zoned R-4A Conditional. To the west and south is the Falls of Autry Mill subdivision, zoned R-4A Conditional. East of the subject property is the Papillon subdivision, zoned AG-1 (Agricultural District).

APPLICABLE CODE REQUIREMENTS

City Code; Chapter 109: Natural Resources & Environmental Protection; Article V: Stream Buffer Protection: Section 109-118: Land Development Requirements.

- (i) An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the point of wrested vegetation.
- (ii) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

VARIANCE REQUIREMENTS

Staff is including the specific conditions that must be considered for a variance to be granted in an effort to assist the Board of Zoning Appeals in considering the application and its merits. These considerations include:

- (i) When a property's shape, topography or other physical conditions existing at the time of the adoption of this ordinance prevents land development unless a buffer variance is granted.
- (ii) Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.

ADDITIONAL STREAM BUFFER CONSIDERATIONS

Stream buffers are the areas of land immediately adjacent to the banks of state waters which facilitate the protection of water quality and aquatic habitat. Buffers also preserve green space, improve aesthetics, reduce stormwater runoff velocities, help control flooding, and keep stream water cool by providing shade. These buffers must remain undisturbed in their natural state during and after construction, however variances can be obtained that allow for encroachment under certain conditions. Stream buffers are regulated on both the state and local levels and each agency has different rules regarding buffer widths. The Georgia Environmental Protection Division (EPD) requires 25 foot buffers on both sides of a stream, measured from the point of wrested vegetation which is usually located at the tops of the banks. The City of Johns Creek requires an undisturbed buffer of 50 feet with an additional 25 feet where all impervious surfaces are prohibited. Variance applications may be granted on a case by case basis provided the applicant submit information showing the location of the stream, the extent of encroachment, and documentation of the unusual hardship should the buffer be maintained. These variance applications must also provide mitigation measures to offset the impacts of land development or disturbance on the proposed property. Although allowed by ordinance, granting of stream buffer variances should be kept to a practicable minimum in order to preserve water quality and minimize flood risks from future, upstream development. The location and extent of buffer encroachment, long term water quality impacts, and potential, less intrusive alternate designs are all factors to be considered in determining whether to issue a variance. Stream Buffer Variances granted by the City of Johns Creek are subject to annual audits by the Metropolitan North Georgia Water Planning District and the EPD. The City must ensure that consistency and thorough examination to long term impacts are considered in order to justify granting variances.

RECOMMENDATION

The applicant would like to extend an existing deck and construct an overhead arbor addition, thus requiring an encroachment of 8 linear feet (60 square feet) into the 50-foot undisturbed buffer and additional 25-foot impervious surface setback. The applicant's site plan would illustrate that under the previous stream buffer requirement, the property would have had the ability to extend the existing deck and construct an arbor while maintaining an adequate setback from the platted 25-foot stream buffer. The requested encroachment of 8 feet (60 square feet) would not require removal of existing plant material, as the balance of the subject property is grassed and the majority of the existing vegetation is located along the perimeter of the property; therefore, providing sufficient screening of the deck and rear yard. Additionally, for the purpose of mitigation to offset the proposed encroachment into the stream buffer, the applicant would install a single October glory maple tree, one Ginkgo tree and three Cryptomeria trees. The Department would note that the Board of Zoning Appeals has approved similarly situated stream buffer encroachments in the past within the Oxford Mill subdivision.

In light of the subject property having had the ability to extend the deck and construct an overhead arbor addition under the previous stream buffer requirement, with the proposed additions having no adverse impact on existing vegetation, and implementation of a mitigation plan that exceeds the revegetation standards for a 60 square foot encroachment into the stream buffer; the Department of Community and Development recommends **APPROVAL** with conditions of this request.

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** with conditions of this request, subject to the following conditions of approval or as may be amended by the Board of Zoning Appeals:

- 1) The proposed deck extension and overhead arbor addition shall encroach no more than 8 feet (60 square feet) into the 50-foot undisturbed buffer and additional 25-foot impervious surface setback, as shown on the site plan dated November 22, 2010.
- 2) Obtain building permits from the City of Johns Creek Community Development Department prior to commencement of proposed deck and arbor additions.
- 3) As part of the building permit, the applicant is to submit a copy of the mitigation plan that was provided with the variance application dated November 22, 2010. The mitigation plan must clearly depict the location, number, and plant material to be installed on the property.
- 4) The applicant is required, prior to issuance of a certificate of completion, to replant vegetation on the subject property, in order to offset any adverse impact associated with additional impervious surface closer to the stream. Revegetation of the property shall be consistent with the mitigation plan submitted by the applicant to the Department of Community and Development on November 22, 2010.

Aerial and Vicinity Map

